

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Chapter 11 Cases

Twin Cities Stores, Inc.,
Twin Cities Avanti Stores, LLC,

Case No. BKY 09-34468
Case No. BKY 09-34469

Debtors.

Jointly Administered

**NOTICE OF HEARING AND MOTION
OF THE MINNESOTA POLLUTION CONTROL AGENCY
FOR PAYMENT OF CIVIL PENALTIES
AS AN ADMINISTRATIVE EXPENSE**

TO: All Parties in Interest and Other Entities as Specified in Local Rule 9013.

1. The Minnesota Pollution Control Agency (MPCA) moves the Court for an Order authorizing payment as an administrative expense under 11 U.S.C. § 503(b)(1)(A) of \$7,600 in civil penalties assessed by the MPCA against Twin Cities Stores, Inc. for violations of MPCA underground storage tank rules during bankruptcy.

2. A hearing on the Motion will be held at 9:30 a.m. on February 4, 2010, in Courtroom 2B, Warren E. Burger Federal Building, 316 North Robert Street, St. Paul, Minnesota.

3. Any response to this Motion must be filed and served by delivery not later than January 29, 2010, which is five days before the time set for hearing including Saturdays, Sundays, and holidays. **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. The basis for the Motion is more fully described in the attached Memorandum in Support of the Motion and attached Affidavit of Robert Dullinger.

WHEREFORE, the MPCA respectfully requests that the Court enter its order:

A. Authorizing payment as an administrative expense of \$7,600 in civil penalties assessed by the MPCA against Twin Cities Stores, Inc. for violation of MPCA underground storage tank rules during bankruptcy; and

B. Granting such other and further relief as the Court may deem just and equitable.

Dated: January 8, 2010

Respectfully submitted,

LORI SWANSON
Attorney General
State of Minnesota

/s/ Beverly M. Conerton
BEVERLY M. CONERTON
Assistant Attorney General
Atty. Reg. No. 0157946

445 Minnesota Street, Suite 900
St. Paul, Minnesota 55101-2127
(651) 757-1426 (Voice)
(651) 296-1410 (TTY)

ATTORNEYS FOR MINNESOTA
POLLUTION CONTROL AGENCY

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Chapter 11 Cases

Twin Cities Stores, Inc.,
Twin Cities Avanti Stores, LLC,

Case No. BKY 09-34468
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**MEMORANDUM IN SUPPORT OF
THE MINNESOTA POLLUTION CONTROL AGENCY'S MOTION
FOR PAYMENT OF CIVIL PENALTIES
AS AN ADMINISTRATIVE EXPENSE**

INTRODUCTION

The Minnesota Pollution Control Agency (MPCA) submits this Memorandum of Law in support of its Motion. The MPCA is seeking an order that civil penalties assessed by the MPCA in Field Citations issued to Twin Cities Stores, Inc. (Twin Cities Stores) for violations of MPCA's underground storage tank rules during bankruptcy be paid as an administrative expense under 11 U.S.C. § 503(b)(1)(A). Because penalties assessed for failing to comply with environmental requirements during bankruptcy are actual and necessary costs and expenses of preserving the estate and are ordinarily incident to the operation of a business, the MPCA requests that the Court grant its Motion.

FACTUAL BACKGROUND

The MPCA is a agency of the State of Minnesota responsible for administering and enforcing statutes and rules related to air, water, and land pollution, which statutes and rules have general application throughout the State. Minn. Stat. chs. 115 and 116 (2008). Under its

authority to protect waters of the State from pollution, the MPCA has adopted rules codified in Minn. R. 7150 (2009) that govern the operation of underground storage tanks. Minn. R. ch. 7150 was first adopted in 1991. These rules apply to both owners and operators of underground storage tanks. Minn. R. 7150.0010, subp. 1.

To ensure compliance with its rules, MPCA staff conduct inspections of facilities with underground storage tanks. Affidavit of Robert Dullinger, paragraph 2, attached hereto as Attachment A. If the MPCA finds violations of its rules, the MPCA has the authority to impose penalties. *See, e.g.* Minn. Stat. § 115.071, subd. 3 (MPCA can assess civil penalties of up to \$10,000 per day of violation); Minn. Stat. § 116.072 (MPCA can issue an Administrative Penalty Order assessing a penalty of up to \$10,000); and Minn. Stat. § 116.073 (MPCA can issue a Field Citation assessing statutorily-defined penalties per violation).

With respect to Field Citations, Minn. Stat. § 116.073, subd. 1(c) provides that the MPCA may only assess penalties for violation of MPCA's underground storage tank rules or statutes after the MPCA gives the owner or operator of the tank at least 60 days to correct the violations, unless the violation resulted in a discharge or unless the violation is a repeat violation from a previous inspection. If the violations are repeat, the MPCA may immediately issue a Field Citation with penalties.

For violations that are not repeat violations, the MPCA first issues a Field Citation Warning giving the owner or operator of the tank at least 60 days to correct the violations without a penalty. Dullinger Affidavit, paragraph 6. If the owner or operator fails to correct the violations and remains in violation after the 60 days period, the MPCA issues a Field Citation assessing a penalty for the violations. *Id.*

As described more fully in the Affidavit of Robert Dullinger, paragraphs 7 to 21, the MPCA has issued five Field Citations to Twin Cities Stores assessing penalties for violations of MPCA's underground storage tank rules during bankruptcy at four of its facilities. Each of the Field Citations was issued after the date that Twin Cities Stores filed its June 30, 2009, petition in bankruptcy and, thus, are post-Petition expenses. The total amount of civil penalties due and owing to the MPCA under these Field Citations is \$7,600.

ARGUMENT

PENALTIES FOR VIOLATION OF ENVIRONMENTAL LAWS DURING BANKRUPTCY ARE COSTS ELIGIBLE TO BE PAID AS AN ADMINISTRATIVE EXPENSE.

The Bankruptcy Code, 5 U.S.C. § 503(b)(1)(A), allows payment of actual and necessary costs and expenses of preserving the estate as an administrative expense.

Courts have held that a civil penalty for failing during bankruptcy to meet the requirements of environmental protection laws qualifies as an administrative expense under section 503(b)(1)(A) of the Bankruptcy Code because civil penalties are actual and necessary costs and expenses of preserving the estate and “a cost ‘ordinarily incident to operation of a business’ in light of today’s extensive environmental regulations.” *Cumberland Farms, Inc. v. Florida Department of Environmental Protection*, 116 F.3d 16, 20 (1st Cir. 1997) (affirming the judgment of the court to pay as a priority administrative expense under Section 503(b) penalties for violation of Florida’s underground storage tank regulations). *See also, In re N.P. Mining Company, Inc.*, 963 F.2d 1449 (11th Cir. 1992) (holding that civil penalties assessed against a debtor-in-possession for post petition violations of surface mining requirements are actual and necessary costs and expenses of preserving the estate and should be given administrative expense

status under Section 503(b)); *In re Bill's Coal Company*, 124 B.R. 827 (D. Kansas 1991) (holding that civil penalties assessed for postpetition violations of surface mining laws and regulations are a cost of doing business and should be paid as an administrative expense); *In re Motel Investments, Inc.*, 172 B.R. 105 (M.D. Florida 1994) (holding that post petition penalties assessed because of a debtor's failure to comply with a consent decree requiring remediation of environmental contamination is an administrative expense under Section 503(b) of the Bankruptcy Code).

MPCA rules governing underground storage tank rules have been in effect for 18 years, since 1991, and apply to both owners and operators of underground storage tanks. Twin Cities Stores is a debtor in possession responsible for complying with all environmental laws during bankruptcy, including the requirements of MPCA's underground storage tank rules.

As described more fully in the Affidavit of Robert Dullinger, Attachment A, Twin Cities Stores failed to comply with MPCA's underground storage tank rules during bankruptcy, which resulted in the assessment by the MPCA of civil penalties in Field Citations issued to Twin Cities Stores. Each of the Field Citations was issued post-Petition for failing to be in compliance with underground storage tank requirements at the time the Field Citations were issued. A total of \$7,600 in civil penalties is due and owing to the MPCA for the violations in the Field Citations. The MPCA requests that the Court order that the \$7,600 in civil penalties be paid as an administrative expense under Section 503(b)(1)(A) of the Bankruptcy Code.

CONCLUSION

For the foregoing reasons, the MPCA respectfully requests that this Court enter an Order granting the relief requested in the Motion.

Dated: January 8, 2010

Respectfully submitted,

LORI SWANSON
Attorney General
State of Minnesota

/e/ Beverly M. Conerton
BEVERLY M. CONERTON
Assistant Attorney General
Atty. Reg. No. 0157946

445 Minnesota Street, Suite 900
St. Paul, Minnesota 55101-2127
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(651) 296-1410 (TTY)

ATTORNEYS FOR MINNESOTA
POLLUTION CONTROL AGENCY

AG: #2548306-v1

Jointly Administered

ATTACHMENT A
AFFIDAVIT OF ROBERT DULLINGER IN SUPPORT OF MPCA'S MOTION
FOR PAYMENT OF MPCA CIVIL PENALTIES
AS AN ADMINISTRATIVE EXPENSE

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

Robert Dullinger, being first duly sworn on oath, hereby deposes and states the following:

1. I am the Supervisor in the Tanks Compliance and Enforcement Unit at the Minnesota Pollution Control Agency (MPCA). I have worked for the MPCA since 1978.
2. As part of my responsibilities at the MPCA, I supervise staff who inspect facilities with underground storage tanks for compliance with the requirements of MPCA's underground storage tank rules, Minn. R. ch. 7150.
3. Minn. R. ch. 7150 governs the operation of underground storage tank systems and applies to all owners and operators of underground storage tank systems. Rules governing underground storage tank systems were first adopted by the MPCA in 1991.
4. Under Minn. Stat. § 116.073, the MPCA has the authority to issue Field Citations containing statutory penalties for violations of MPCA underground storage tank rules, Minn. R. ch. 7150.

5. Minn. Stat. § 116.073, subd. 1(c) provides that the MPCA may only issue a Field Citation for violation of MPCA's underground storage tank rules or statutes after the MPCA provides the owner or operator of the tank at least 60 days to correct the violations, unless the violation resulted in a discharge or unless the violation is a repeat violation from a previous inspection.

6. For violations that are not repeat violations, the MPCA first issues a Field Citation Warning giving the owner or operator of the tank at least 60 days to correct the violation without a penalty. If the owner or operator fails to correct the violation and remains in violation after the 60 days period, the MPCA issues a Field Citation containing a penalty for the violation.

7. The MPCA has issued Field Citations with civil penalties for violations of MPCA underground storage tank rules at the following facilities owned or operated by Twin Cities Stores, Inc. (Twin Cities Stores). Each of the Field Citations were issued after the date that Twin Cities Stores filed its June 30, 2009 petition in bankruptcy. The issuance of the Field Citations is described more fully in Paragraphs 8-21 below.

Facility Name	Date Field Citation Issued	Penalty Amount
Fastrip 12095 Hanson Blvd Coon Rapids, MN 55448	August 6, 2009	\$1,500
Fastrip 12095 Hanson Blvd Coon Rapids, MN 55448	November 6, 2009	\$1,500
Oasis Market #616 103 North Main Street Stillwater, MN 55082	October 26, 2009	\$1,500
Oasis Market #579 1125 West Main Cannon Falls, MN 55009	October 14, 2009	\$1,100

Oasis #578
3240 East 57th Street
Inver Grove Heights, MN 55075

November 6, 2009

\$2,000

Total:

\$7,600

Fastrip Facility - Coon Rapids, Minnesota

8. On July 15, 2009, MPCA inspector Jake Mueller inspected the gasoline station owned by Twin Cities Stores, Inc. at 12095 Hanson Boulevard, Coon Rapids, Minnesota operating under the name Fastrip. During the inspection, the MPCA found four violations of MPCA underground storage tank rules. Two of the violations (Minn. R. 7150.0340, subp. 2 and Minn. R. 7150.0300, subp. 5) were repeat violations from a previous inspection. Two of the violations (Minn. R. 7150.0300, subp. 7 and Minn. R. 7150.0215, subp. 2) were not repeat violations.

9. On August 6, 2009, pursuant to Minn. Stat. § 116.073, the Commissioner of the MPCA issued a Field Citation to Twin Cities Stores for the two repeat violations found during the July 16, 2009 inspection. Twin Cities Stores received the Field Citation. See copy of Field Citation and certified mail confirmation receipt attached hereto as Exhibit 1. The Field Citation assessed a penalty of \$1,500 for the violations. The Field Citation informed Twin Cities Stores of its right to request a hearing to appeal the Field Citation within 15 days after receipt of the Field Citation. Twin Cities Stores did not appeal the Field Citation, and, therefore, the Field Citation is a final order not subject to further review pursuant to Minn. Stat. § 116.073, subd. 3. Twin Cities Stores has not paid the \$1,500 penalty.

10. On August 6, 2009, the MPCA also issued a Field Citation Warning to Twin Cities Stores for the two violations found during the July 15, 2009 inspection that were not repeat violations. Twin Cities Stores received the Citation Warning. See copy of Citation

Warning and certified mail confirmation receipt attached hereto as Exhibit 2. The Field Citation Warning stated that a Field Citation would be issued and a \$1,500 penalty assessed if Twin Cities Stores did not complete the corrected action listed in the Field Citation Warning by October 6, 2009.

11. On October 26, 2009, pursuant to Minn. Stat. § 116.073, the Commissioner of the MPCA issued a Field Citation to Twin Cities Stores because Twin Cities Stores had not corrected the violations in the Field Citation Warning. The Field Citation was reissued on November 6, 2009 because the second page of the Field Citation had been left off of the copy sent to Twin Cities Stores. Twin Cities Stores received the Field Citation on November 10, 2009. See copy of Field Citation and certified mail confirmation receipt attached hereto as Exhibit 3. The Field Citation assessed a penalty of \$1,500 for the violations. The Field Citation informed Twin Cities Stores of its right to request a hearing to appeal the Field Citation within 15 days after receipt of the Field Citation. Twin Cities Stores did not appeal the Field Citation and, therefore, the Field Citation is a final order not subject to further review pursuant to Minn. Stat. § 116.073, subd. 3. Twin Cities Stores has not paid the \$1,500 penalty.

Oasis Market #616, Stillwater, Minnesota

12. On May 4, 2009, MPCA inspector Jenalee Boese inspected the gasoline station owned by Twin Cities Stores at 103 North Main Street, Stillwater, Minnesota operating under the name Oasis Market. During the inspection, the MPCA found three violations of MPCA underground storage tank rules. One of the violations (Minn. R. 7150.0340, subp. 2) was a repeat violation from a previous inspection. Two of the violations (Minn. R. 7150.0300, subp. 7 and Minn. R. 7150.0300, subp. 5) were not repeat violations.

13. A Field Citation for the repeat violation was issued on May 4, 2009 and is already included in the Proof of Claim submitted by the MPCA in the Twin Cities Stores bankruptcy. It is not included in this request for administrative expenses.

14. On May 8, 2009, pursuant to Minn. Stat. § 116.073, the Commissioner of the MPCA issued a Field Citation Warning to Twin Cities Stores for the violations that were not repeat violations. Twin Cities Stores received the Field Citation Warning on May 11, 2009. See copy of Citation Warning and certified mail confirmation receipt attached hereto as Exhibit 4. The Field Citation Warning stated that a Field Citation would be issued and a \$1,500 penalty assessed if Twin Cities Stores did not complete the corrected action listed in the Field Citation Warning by July 8, 2009.

15. On October 26, 2009, pursuant to Minn. Stat. § 116.073, the Commissioner of the MPCA issued a Field Citation to Twin Cities Stores because Twin Cities Stores had not corrected the violations in the Field Citation Warning. Twin Cities Stores received the Field Citation on October 27, 2009. See copy of Field Citation and certified mail confirmation receipt attached hereto as Exhibit 5. The Field Citation assessed a penalty in the amount of \$1,500 for the violations. The Field Citation informed Twin Cities Stores of its right to request a hearing to appeal the Field Citation within 15 days after receipt of the Field Citation. Twin Cities Stores did not appeal the Field Citation and, therefore, the Field Citation is a final order not subject to further review pursuant to Minn. Stat. § 116.073, subd. 3. Twin Cities Stores has not paid the \$1,500 penalty.

Oasis Market #579 - Cannon Falls, Minnesota

16. On February 18, 2009, MPCA inspector Jeffrey Brandon inspected the gasoline station owned by Twin Cities Stores at 1125 West Main, Cannon Falls, Minnesota operating

under the name Oasis Market. During the inspection, the MPCA found violations of MPCA underground storage tank rules.

17. On February 26, 2009, pursuant to Minn. Stat. § 116.073, the Commissioner of the MPCA issued a Field Citation Warning to Twin Cities Stores for violations of certain MPCA underground storage tank rules found during the February 25, 2009 inspection of the Facility. Twin Cities Stores received the Field Citation Warning on February 27, 2009. See copy of Citation Warning and certified mail confirmation receipt attached hereto as Exhibit 6. The Citation Warning stated that a Field Citation would be issued and a \$1,100 penalty assessed if Twin Cities Stores did not complete the corrected action listed in the Field Citation Warning.

18. On October 14, 2009, pursuant to Minn. Stat. § 116.073, the Commissioner of the MPCA issued a Field Citation to Twin Cities Stores because Twin Cities Stores had not corrected the violations in the Field Citation Warning. Twin Cities Stores received the Field Citation on October 15, 2009. See copy of Field Citation and certified mail confirmation receipt attached hereto as Exhibit 7. The Field Citation assessed a penalty in the amount of \$1,100 for the violations. The Field Citation informed Twin Cities Stores of its right to request a hearing to appeal the Field Citation within 15 days after receipt of the Field Citation. Twin Cities Stores did not appeal the Field Citation, and, therefore, the Field Citation is a final order not subject to further review pursuant to Minn. Stat. § 116.073, subd. 3. Twin Cities Stores has not paid the \$1,100 penalty.

Oasis #578 - Inver Grove Heights, Minnesota

19. On October 19, 2009, MPCA inspector Shirley Smith inspected the gasoline station owned by Twin Cities Stores at 3240 East 57th Street, Inver Grove Heights, Minnesota

operating under the name Oasis Market. During the inspection, the MPCA found violations of MPCA underground storage tank rules.

20. On November 6, 2009, pursuant to Minn. Stat. § 116.073, the Commissioner of the MPCA issued a Field Citation to Twin Cities Stores because three of the violations found during the inspection were repeat violations from a previous inspection. Twin Cities Stores received the Field Citation. See copy of Field Citation and certified mail confirmation receipt attached hereto as Exhibit 8. The Field Citation assessed a penalty in the amount of \$2,000 for the violations. The Field Citation informed Twin Cities Stores of its right to request a hearing to appeal the Field Citation within 15 days after receipt of the Field Citation. Twin Cities Stores did not appeal the Field Citation, and, therefore, the Field Citation is a final order not subject to further review pursuant to Minn. Stat. § 116.073, subd. 3. Twin Cities Stores has not paid the \$2,000 penalty.

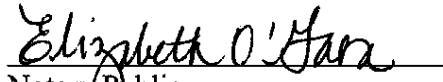
21. The total amount currently due and owing by Twin Cities Stores, Inc. under the Field Citations described above is \$7,600.

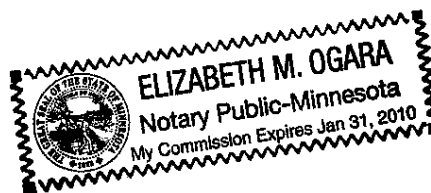
FURTHER AFFIANT SAYETH NOT.

Dated: 12/22/09


ROBERT DULLINGER

Subscribed and sworn to before me on this 22nd day of December, 2009.


Notary Public



**Minnesota Pollution Control Agency**

520 Lafayette Road
St. Paul, MN 55155-4194

Storage Tank Facility**Field Citation**

Inspection # 4

Field Citation for Violation of Underground Storage Tank Rules and Statutes

Site: 12316 - Fastrup
12095 Hanson Blvd
Coon Rapids MN 55448

Owner: Twin Cities Stores, Inc.
1800 E Cliff Rd Ste 2
Burnsville MN 55337

952-641-8900

Contact: Dan Price

On 07/15/2009, an underground storage tank (UST) inspection was conducted at the above stated facility.
During this inspection, violations of the following rules and/or statutes were observed:

Rule/Statute	Violation Description	Corrective Action	# Systems	Per Tank/Pipe	Penalty
7150.0340 subp. 2	Failure to conduct annual line leak detector function test.	Conduct line leak detector function test and submit passing results to MPCA.	3	X \$250.00 =	\$750.00 Due Date: 9/6/2009
7150.0300 subp. 5	Failure to provide monthly leak detection for tanks.	Perform approved leak detection method for tank at least monthly and submit passing results to MPCA.	3	X \$250.00 =	\$750.00 Due Date: 9/6/2009
Subtotal (not to exceed \$2000.00):					\$1500.00
TOTAL OF THIS CITATION:					\$1500.00

Notes:

1. There wasn't any SIR reports at the facility. Please send in a passing SIR report for July, 2009 and August, 2009.
2. Conduct the annual mechanical line leak detector function checks and send in passing results.

Inspector:

Jacob Mueller
651-336-8098
jacob.mueller@state.mn.us
MPCA St. Paul Office
520 Lafayette Road N
St. Paul MN 55155-4194

Inspector Signature: _____**EXHIBIT 1**



Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, MN 55155-4194

Storage Tank Facility

Field Citation

Site # 12316 Inspection # 4

Appeals of Field Citations:

Under Minnesota Statute 116.073, subdivision 3, you may request an expedited hearing to appeal this Field Citation. The following description summarizes the appeal process. It is merely to aid your understanding of your rights. The Commissioner strongly advises you to review the law itself before proceeding.

TO OBTAIN AN EXPEDITED HEARING:

- You must make the hearing request within 15 days of receipt of the Field Citation.
- You must request a hearing in writing.
- You must state the reason you are requesting review of the Field Citation.

The request must be mailed to:

Paul Eger, Commissioner
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155-4194

Please send a copy of the request to:

Jacob Mueller
Minnesota Pollution Control Agency
520 Lafayette Road N
St. Paul MN 55155-4194

Please send a copy of the request to:

Beverly Conerton
Assistant Attorney General
North Central Life Tower
445 Minnesota Street, Suite 900
St. Paul, Minnesota 55101-2127

If you do not request a hearing within 15 days of receipt of the Field Citation, the Field Citation becomes a final order and will not be subject to further review. If a hearing is held, the Field Citation becomes final when the time to petition the Court of Appeals has expired or the Court of Appeals has ruled and upheld the Field Citation. If you fail to comply with the Field Citation, the MPCA may file the Field Citation in District Court where it will become a final judgement against you without further or additional proceedings. The MPCA may enforce and collect the judgement or a District Court Order against you and require payment of unpaid penalties, monetary damages, attorney fees, costs, and interest. The Attorney General may petition the District Court for entry of the Field Citation as an order of the District Court that may be enforced against you in the same manner as a judgement of the District Court.

Payment of the amount specified in the Field Citation must be sent within 30 days of issuance of the Field Citation. Payment is to be by check or money order payable to Minnesota Pollution Control Agency. The check should be mailed to Attn: Deb Charpentier, Enforcement Penalty Coordinator, Minnesota Pollution Control Agency, 520 Lafayette Road North, St. Paul, MN 55155-4194.

CORRECTIVE ACTIONS:

Corrective actions must be completed within 30 days of issuance of the Field Citation. Failure to complete corrective actions within the 30 day period will result in additional enforcement actions, including penalties and issuance of red tags that will temporarily prevent product delivery to the non-compliant tank system(s).

For Office Use Only	
Site #	12316
County:	ANOKA

CERTIFIED MAIL

For: JAKE MUELLER Floor: 5TH

Mailed On: AUG 6TH, 2009

- ☐ Citation Warning
☒ Field Citation
☐ Letter _____

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OFFICIAL USE

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Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee		

Mr. Scott Stevens
 Twin Cities Stores, Inc.
 1800 East Cliff Road, Suite 2
 Burnsville, MN 55337

PS Form 3800, June 2002 See Reverse for Instructions

2. Article Number (Transfer from service label) 7003 9110 0004 8294 2266
 PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

Mr. Scott Stevens
 Twin Cities Stores, Inc.
 1800 East Cliff Road, Suite 2
 Burnsville, MN 55337

Service Type

☐ Certified Mail
☐ Registered
☐ Insured Mail
☐ Express Mail
☐ Return Receipt for Merchandise
☐ C.O.D.
☐ Restricted Delivery¹ (Extra Fee) ☐ Yes

1. Article Addressed to: #12316

☐ Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
☐ Print your name and address on the reverse so that we can return the card to you.
☐ Attach this card to the back of the mailpiece, or on the front if space permits.

A. Signature ☒ X W. Stevens
 B. Received by (Printed Name) W. Stevens
 C. Date of Delivery
 D. Is delivery address different from item 1? ☐ Yes ☐ No
 If YES, enter delivery address below:

SENDER: COMPLETE THIS SECTION

COMPLETE THIS SECTION ON DELIVERY

9922 4628 4000 DTLE E002

**Minnesota Pollution Control Agency**

520 Lafayette Road

St. Paul, MN 55155-4194

Storage Tank Facility**Field Citation Warning**

Inspection # 4

Site: 12316 - Fastrup
12095 Hanson Blvd
Coon Rapids MN 55448

Owner: Twin Cities Stores, Inc.
1800 E Cliff Rd Ste 2
Burnsville MN 55337

952-641-8900

Contact: Dan Price

This is a warning of pending Field Citation for violations of Storage Tank requirements relating to an inspection conducted on 07/15/2009 at the above listed facility. The Minnesota Pollution Control Agency (MPCA) has sufficient information to indicate that the Company has violated the following provisions of state statutes or rules:

Rule/Statute	Violation Description	Corrective Action	# Systems	Per Tank/Pipe	Penalty
7150.0300 subp. 7	Failure to inspect dispenser sumps, spill buckets, and pump sumps monthly.	Inspect all sumps and catchment basins monthly. Begin retaining records to document monthly inspections and submit documentation to MPCA.	3	X \$250.00 =	\$750.00 Due Date: 10/6/2009
7150.0215 subp. 2	Cathodic protection test for piping not conducted every 3 yrs with adequate results.	Conduct cathodic protection test for piping with sacrificial anodes every three years. Submit passing results to MPCA.	3	X \$250.00 =	\$750.00 Due Date: 10/6/2009
Subtotal (not to exceed \$2000.00):					\$1500.00

A field citation in the amount of: **\$1500.00** will be assessed if the corrective actions are not completed and sent to the MPCA by the due date.

Notes:

1. Start inspection and documenting the inspections of the spill buckets, tank sumps, and under the dispensers on a monthly basis.
2. Conduct the cathodic protection test on the piping and send in passing results.

Inspector:

Jacob Mueller

651-336-8098

jacob.mueller@state.mn.us

MPCA St. Paul Office

520 Lafayette Road N

St. Paul

MN 55155-4194

EXHIBIT 2

For Office Use Only

Site # **12316**

County: **ANOKA**

CERTIFIED MAIL

For: **JAKE MUELLER** Floor: **5TH**

Mailed On: **AUG 6TH, 2009**

- ☒ Citation Warning
- ☒ Field Citation
- ☐ Letter _____

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Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee	

Postmark Here

Mr. Scott Stevens
 Twin Cities Stores, Inc.
 1800 East Cliff Road, Suite 2
 Burnsville, MN 55337

PS Form 3800, June 2002 See Reverse for Instructions

2. Article Number
 (Transfer from serviced label)
7003 3110 0004 8294 2266

PS Form 3811, February 2004 Domestic Return Receipt

Mr. Scott Stevens
 Twin Cities Stores, Inc.
 1800 East Cliff Road, Suite 2
 Burnsville, MN 55337

Service Type

<input type="checkbox"/> Certified Mail	<input type="checkbox"/> Express Mail
<input type="checkbox"/> Registered	<input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Insured Mail	<input type="checkbox"/> C.O.D.

Restricted Delivery? (Extra Fee) ☐ Yes

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to: **#12316**

COMPLETE THIS SECTION ON DELIVERY

A. Signature **X** *W. Stevens*

B. Received by (Printed Name) **W. Stevens**

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes ☐ No

If YES, enter delivery address below:

9922 4629 4000 071E E00L



Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, MN 55155-4194

REISSUE

Storage Tank Facility

Field Citation

Inspection # 5

Field Citation for Violation of Underground Storage Tank Rules and Statutes

Site: 12316 - Fastrup

12095 Hanson Blvd

Coon Rapids MN 55448

Owner: Twin Cities Stores, Inc.

1800 E Cliff Rd Ste 2

Burnsville MN 55337

952-641-8900

Contact: Dan Price

On 07/16/2009, an underground storage tank (UST) inspection was conducted at the above stated facility.
During this inspection, violations of the following rules and/or statutes were observed:

Rule/Statute	Violation Description	Corrective Action	# Systems	Per Tank/Pipe	Penalty
7150.0300 subp. 7	Failure to inspect dispenser sumps, spill buckets, and pump sumps monthly.	Inspect all sumps and catchment basins monthly. Begin retaining records to document monthly inspections and submit documentation to MPCA.	3	X \$250.00 =	\$750.00 Due Date: 12/6/2009
7150.0215 subp. 2	Cathodic protection test for piping not conducted every 3 yrs with adequate results.	Conduct cathodic protection test for piping with sacrificial anodes every three years. Submit passing results to MPCA.	3	X \$250.00 =	\$750.00 Due Date: 12/6/2009
Subtotal (not to exceed \$2000.00):					\$1500.00
TOTAL OF THIS CITATION:					\$1500.00

Notes:

1. Visually inspect and document all inspections of the tank sumps, spill buckets, and under the dispensers on a monthly basis.
2. Conduct the cathodic protection test on the piping before the ground freezes. NOTE: NO EXTENSIONS WILL BE GRANTED IF YOU CANNOT CONDUCT THE CATHODIC PROTECTION TEST BEFORE THE GROUND FREEZES. Send in passing results.

Inspector:

Jacob Mueller

651-336-8098

jacob.mueller@state.mn.us

MPCA St. Paul Office

520 Lafayette Road N

St. Paul

MN 55155-4194

Inspector Signature: 

EXHIBIT 3



Appeals of Field Citations:

Under Minnesota Statute 116.073, subdivision 3, you may request an expedited hearing to appeal this Field Citation. The following description summarizes the appeal process. It is merely to aid your understanding of your rights. The Commissioner strongly advises you to review the law itself before proceeding.

TO OBTAIN AN EXPEDITED HEARING:

- You must make the hearing request within 15 days of receipt of the Field Citation.
- You must request a hearing in writing.
- You must state the reason you are requesting review of the Field Citation.

The request must be mailed to:

Paul Eger, Commissioner
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155-4194

Please send a copy of the request to:

Jacob Mueller
Minnesota Pollution Control Agency
520 Lafayette Road N
St. Paul MN 55155-4194

Please send a copy of the request to:

Beverly Conerton
Assistant Attorney General
North Central Life Tower
445 Minnesota Street, Suite 900
St. Paul, Minnesota 55101-2127

If you do not request a hearing within 15 days of receipt of the Field Citation, the Field Citation becomes a final order and will not be subject to further review. If a hearing is held, the Field Citation becomes final when the time to petition the Court of Appeals has expired or the Court of Appeals has ruled and upheld the Field Citation. If you fail to comply with the Field Citation, the MPCA may file the Field Citation in District Court where it will become a final judgement against you without further or additional proceedings. The MPCA may enforce and collect the judgement or a District Court Order against you and require payment of unpaid penalties, monetary damages, attorney fees, costs, and interest. The Attorney General may petition the District Court for entry of the Field Citation as an order of the District Court that may be enforced against you in the same manner as a judgement of the District Court.

Payment of the amount specified in the Field Citation must be sent within 30 days of issuance of the Field Citation. Payment is to be by check or money order payable to Minnesota Pollution Control Agency. The check should be mailed to Attn: Deb Charpentier, Enforcement Penalty Coordinator, Minnesota Pollution Control Agency, 520 Lafayette Road North, St. Paul, MN 55155-4194

CORRECTIVE ACTIONS:

Corrective actions must be completed within 30 days of issuance of the Field Citation. Failure to complete corrective actions within the 30 day period will result in additional enforcement actions, including penalties and issuance of red tags that will temporarily prevent product delivery to the non-compliant tank system(s).

For Office Use Only

Site # 12316

County: ANOKA

CERTIFIED MAIL

Jake Mueller

For: _____

Floor: 5

Mailed On: 6 NOVEMBER 2009

- ☐ Citation Warning
- ☒ **REISSUE** Field Citation
- ☐ Letter _____

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Postage	\$
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Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	

#12316

Postmark
Here

Mr. Dan Price
 Twin Cities Stores, Inc.
 1800 East Cliff Road **Suite 2**
 Burnsville, MN 55337

PS Form 3800, August 2006

See Reverse for Instructions

2. Article Number
 (Transfer from service label) 7007 3020 0000 0967 5299

PS Form 3811, February 2004 Domestic Return Receipt 102505-02-MF

Mr. Dan Price
 Twin Cities Stores, Inc.
 1800 East Cliff Road
 Burnsville, MN 55337

3. Service Type
- ☐ Certified Mail ☐ Express Mail
- ☐ Registered ☐ Return Receipt for Merchandise
- ☐ Insured Mail ☐ C.O.D.
4. Restricted Delivery? (Extra Fee) ☐ Yes

1. Article Addressed to: #12316
- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
 - Print your name and address on the reverse so that we can return the card to you.
 - Attach this card to the back of the mailpiece, or on the front if space permits.

- A. Signature ☐ Agent ☒ Addressee
- B. Received by (Printed Name) Richard Price
- C. Date of Delivery 11-10-09
- D. Is delivery address different from item 1? ☐ Yes ☒ No
- If YES, enter delivery address below:

SENDER: COMPLETE THIS SECTION

COMPLETE THIS SECTION ON DELIVERY

6525 2960 0000 0202 2002

Minnesota Pollution Control Agency520 Lafayette Road
St. Paul, MN 55155-4194**Storage Tank Facility****Field Citation Warning**

Inspection # 2

Site: 4155 - Oasis Market #616
103 N Main St
Stillwater MN 55082**Owner:** Twin Cities Stores, Inc.
1800 E Cliff Rd Ste 2
Burnsville MN 55337

952-641-8900

Contact: Dan Price

This is a warning of pending Field Citation for violations of Storage Tank requirements relating to an inspection conducted on 05/04/2009 at the above listed facility. The Minnesota Pollution Control Agency (MPCA) has sufficient information to indicate that the Company has violated the following provisions of state statutes or rules:

Rule/Statute	Violation Description	Corrective Action	# Systems	Per Tank/Pipe	Penalty
7150.0300 subp. 7	Failure to inspect dispenser sumps, spill buckets, and pump sumps monthly.	Inspect all sumps and catchment basins monthly. Begin retaining records to document monthly inspections and submit documentation to MPCA.	3	X \$250.00 =	\$750.00
				Due Date:	7/8/2009
				Subtotal (not to exceed \$2000.00):	\$750.00
7150.0300 subp. 5	Failure to provide monthly leak detection for tanks.	Perform approved leak detection method for tank at least monthly and submit passing results to MPCA.	3	X \$250.00 =	\$750.00
				Due Date:	7/8/2009
				Subtotal (not to exceed \$2000.00):	\$750.00

A field citation in the amount of: **\$1500.00** will be assessed if the corrective actions are not completed and sent to the MPCA by the due date.

Notes:**Inspector:**Jenalee Boese
651-757-2238
jenalee.boese@state.mn.us
MPCA St. Paul Office
520 Lafayette Road N
St. Paul MN 55155-4194**EXHIBIT 4**

For Office Use Only	
Site #	4155
County:	Washington

CERTIFIED MAIL

For: **JENA BOESE**

Floor: **4TH**

Mailed On: **MAY 08, 2009**

- ☒ Citation Warning
☒ **and** Field Citation
☐ Letter

U.S. Postal Service TM	
CERTIFIED MAILTM RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage \$	4155 Postmark Here
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Oasis Market 1800 East Cliff Road Suite 2 Burnsville, MN 55337	

SENDER: COMPLETE THIS SECTION Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits.		COMPLETE THIS SECTION ON DELIVERY Signature: <i>[Signature]</i> Received by (Printed Name): <i>[Signature]</i> Date of Delivery: <i>5-11</i> Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:	
1. Article Addressed to: # 4155		3. Service Type <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
Oasis Market 1800 East Cliff Road Suite 2 Burnsville, MN 55337		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
Article Number: (Transfer from service label) 7007 3020 0000 0961 8708		Domestic Return Receipt PS Form 3811, February 2004	

7007 3020 0000 0961 8708

Minnesota Pollution Control Agency520 Lafayette Road
St. Paul, MN 55155-4194**Storage Tank Facility****Field Citation**

Inspection # 2

Field Citation for Violation of Underground Storage Tank Rules and StatutesSite: 4155 - Oasis Market #616
103 N Main St
Stillwater MN 55082Owner: Twin Cities Stores, Inc.
1800 E Cliff Rd Ste 2
Burnsville MN 55337

952-641-8900

Contact: Dan Price

On 05/04/2009, an underground storage tank (UST) inspection was conducted at the above stated facility.
During this inspection, violations of the following rules and/or statutes were observed:

Rule/Statute	Violation Description	Corrective Action	# Systems	Per Tank/Pipe	Penalty
7150.0300 subp. 7	Failure to inspect dispenser sumps, spill buckets, and pump sumps monthly.	Inspect all sumps and catchment basins monthly. Begin retaining records to document monthly inspections and submit documentation to MPCA.	3	X \$250.00 =	\$750.00 Due Date: 11/23/2009
Subtotal (not to exceed \$2000.00):					\$750.00
7150.0340 subp. 2	Failure to conduct annual line leak detector function test.	Conduct line leak detector function test and submit passing results to MPCA.	3	X \$250.00 =	\$750.00 Due Date: 6/9/2009
7150.0300 subp. 5	Failure to provide monthly leak detection for tanks.	Perform approved leak detection method for tank at least monthly and submit passing results to MPCA.	3	X \$250.00 =	\$750.00 Due Date: 11/23/2009
Subtotal (not to exceed \$2000.00):					\$1500.00
TOTAL OF THIS CITATION:					\$2250.00

Notes:

- 1) submit current SIR records. Sent records only up till Jan 2009. Need more current month records. Continue sticking tank to the 1/8" recently results were to the 1/8" but older records were not.
- 2) Submit all other corrective action in this field citation along with previous field citation.

Inspector:Jenalee Boese
651-757-2238
jenalee.boese@state.mn.us
MPCA St. Paul Office
520 Lafayette Road N
St. Paul MN 55155-4194**Inspector Signature:** _____**EXHIBIT 5**



Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, MN 55155-4194

Storage Tank Facility

Field Citation
Site # 4155 Inspection # 2

Appeals of Field Citations:

Under Minnesota Statute 116.073, subdivision 3, you may request an expedited hearing to appeal this Field Citation. The following description summarizes the appeal process. It is merely to aid your understanding of your rights. The Commissioner strongly advises you to review the law itself before proceeding.

TO OBTAIN AN EXPEDITED HEARING:

- You must make the hearing request within 15 days of receipt of the Field Citation.
- You must request a hearing in writing.
- You must state the reason you are requesting review of the Field Citation.

The request must be mailed to:

Paul Eger, Commissioner
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155-4194

Please send a copy of the request to:

Jenalee Boese
Minnesota Pollution Control Agency
520 Lafayette Road N
St. Paul MN 55155-4194

Please send a copy of the request to:

Beverly Conerton
Assistant Attorney General
North Central Life Tower
445 Minnesota Street, Suite 900
St. Paul, Minnesota 55101-2127

If you do not request a hearing within 15 days of receipt of the Field Citation, the Field Citation becomes a final order and will not be subject to further review. If a hearing is held, the Field Citation becomes final when the time to petition the Court of Appeals has expired or the Court of Appeals has ruled and upheld the Field Citation. If you fail to comply with the Field Citation, the MPCA may file the Field Citation in District Court where it will become a final judgement against you without further or additional proceedings. The MPCA may enforce and collect the judgement or a District Court Order against you and require payment of unpaid penalties, monetary damages, attorney fees, costs, and interest. The Attorney General may petition the District Court for entry of the Field Citation as an order of the District Court that may be enforced against you in the same manner as a judgement of the District Court.

Payment of the amount specified in the Field Citation must be sent within 30 days of issuance of the Field Citation. Payment is to be by check or money order payable to Minnesota Pollution Control Agency. The check should be mailed to Attn: Deb Charpentier, Enforcement Penalty Coordinator, Minnesota Pollution Control Agency, 520 Lafayette Road North, St. Paul, MN 55155-4194

CORRECTIVE ACTIONS:

Corrective actions must be completed within 30 days of issuance of the Field Citation. Failure to complete corrective actions within the 30 day period will result in additional enforcement actions, including penalties and issuance of red tags that will temporarily prevent product delivery to the non-compliant tank system(s).

For Office Use Only
Site # 4155
County: Washington

CERTIFIED MAIL

For: **JENA BOESE**

Floor: **4th**

Mailed On: **OCTOBER 26th, 2009**

- ☐ Citation Warning
- ☒ Field Citation
- ☐ Letter _____

7003 3110 0004 8294 2587

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Mr. Dan Price
 Twin Cities Stores, Inc.
 1800 East Cliff Road, Suite 2
 Burnsville, MN 55337

PS Form 3809, June 2002

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:

#4155

Mr. Dan Price
 Twin Cities Stores, Inc.
 1800 East Cliff Road, Suite 2
 Burnsville, MN 55337

COMPLETE THIS SECTION ON DELIVERY

Signature: *[Signature]* ☐ Agent ☐ Addressee

Received by (Printed Name): *Jena Boese* C. Date of Delivery: *10-27*

D. Is delivery address different from item 1? ☐ Yes ☐ No
 If YES, enter delivery address below:

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes ☐ No

2. Article Number: _____ (Transfer from service label)

PS Form 3811, February 2004

Domestic Return Receipt

102585-02-M-1540

**Minnesota Pollution Control Agency**

520 Lafayette Road
St. Paul, MN 55155-4194

Storage Tank Facility**Field Citation Warning**

Inspection # 2

Site: 14270 - Oasis Market #579

1125 W Main

Cannon Falls MN 55009

Owner: Twin Cities Stores, Inc.

1800 E Cliff Rd Ste 2

Burnsville MN 55337

952-641-8900

Contact: Dan Price

This is a warning of pending Field Citation for violations of Storage Tank requirements relating to an inspection conducted on 02/18/2009 at the above listed facility. The Minnesota Pollution Control Agency (MPCA) has sufficient information to indicate that the Company has violated the following provisions of state statutes or rules:

Rule/Statute	Violation Description	Corrective Action	# Systems	Per Tank/Pipe	Penalty
7150.0100 subp. 14	Drop tube does not extend to within 12" of the tank bottom.	Install drop tube that extends within 12" of the tank bottom. Submit documentation to MPCA upon completion.	2	X \$50.00 =	\$100.00
				Due Date:	5/4/2009
		Subtotal (not to exceed \$2000.00):			\$100.00
7150.0205 subp. 3	Flex connectors in contact with the soil not protected from corrosion	Remove soil or enclose flex connector so not in contact with the soil. Submit documentation to MPCA upon completion.	3	X \$250.00 =	\$750.00
				Due Date:	5/4/2009
		Subtotal (not to exceed \$2000.00):			\$750.00
7150.0340 subp. 2	Failure to conduct annual line leak detector function test.	Conduct line leak detector function test and submit passing results to MPCA.	3	X \$250.00 =	\$750.00
				Due Date:	5/4/2009
7150.0300 subp. 5	Failure to provide monthly leak detection for tanks.	Perform approved leak detection method for tank at least monthly and submit passing results to MPCA.	1	X \$250.00 =	\$250.00
				Due Date:	5/4/2009
		Subtotal (not to exceed \$2000.00):			\$1000.00
A field citation in the amount of: \$1850.00 will be assessed if the corrective actions are not completed and sent to the MPCA by the due date.					

Notes:

Regular unleaded SIR reports indicated a loss of 4,743 gallons in a 14 month period. Investigate the reason for this loss and conduct tank tightness test.

Inspector:

Jeffery Brandon

651-757-2242

jeffery.brandon@pca.state.mn.us

MPCA St. Paul Office

520 Lafayette Road N

St. Paul

MN 55155-4194

EXHIBIT 6

For Office Use Only
Site # <u>14270</u>
County:

CERTIFIED MAIL

Jeff Brandon

For: _____

Floor: 5th

Mailed On: 26 FEBRUARY 2009

- ☒ Citation Warning
- ☐ Field Citation
- ☐ Letter _____

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Postage \$	#14270 Postmark Here
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Mr. Dan Price	
Twin Cities Stores Inc.	
1800 East Cliff Road, Suite 2	
Burnsville, MN 55337	

PS Form 3800, June 2002 See Reverse for Instructions

<p>SENDER: COMPLETE THIS SECTION</p> <p>1. Article Addressed to: <u>Mr. Dan Price</u> <u>Twin Cities Stores Inc.</u> <u>1800 East Cliff Road, Suite 2</u> <u>Burnsville, MN 55337</u></p>		<p>COMPLETE THIS SECTION ON DELIVERY</p> <p>2. Received by (Printed Name) <u>D. Price</u></p> <p>3. Date of Delivery <u>2-27</u></p> <p>4. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If YES, enter delivery address below:</p>	
<p>5. Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>6. Print your name and address on the reverse so that we can return the card to you.</p> <p>7. Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>3. Service Type</p> <p><input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>Article Number: <u>7003 3110 0004 8294 4192</u></p> <p>Transfer from service label</p> <p>Domestic Return Receipt</p> <p>orm 3811, February 2004</p>		<p>102585-02-M-1640</p>	

**Minnesota Pollution Control Agency**

520 Lafayette Road
St. Paul, MN 55155-4194

Storage Tank Facility**Field Citation**

Inspection # 2

Field Citation for Violation of Underground Storage Tank Rules and Statutes

Site: 14270 - Oasis Market #579

1125 W Main

Cannon Falls MN 55009

Owner: Twin Cities Stores, Inc.

1800 E Cliff Rd Ste 2

Burnsville MN 55337

952-641-8900

Contact: Dan Price

On 02/18/2009, an underground storage tank (UST) inspection was conducted at the above stated facility.
During this inspection, violations of the following rules and/or statutes were observed:

Rule/Statute	Violation Description	Corrective Action	# Systems	Per Tank/Pipe	Penalty
7150.0100 subp. 14	Drop tube does not extend to within 12" of the tank bottom.	Install drop tube that extends within 12" of the tank bottom. Submit documentation to MPCA upon completion.	2	X \$50.00 =	\$100.00
Subtotal (not to exceed \$2000.00):					\$100.00
7150.0205 subp. 3	Flex connectors in contact with the soil not protected from corrosion	Remove soil or enclose flex connector so not in contact with the soil. Submit documentation to MPCA upon completion.	3	X \$250.00 =	\$750.00
Subtotal (not to exceed \$2000.00):					\$750.00
7150.0300 subp. 5	Failure to provide monthly leak detection for tanks.	Perform approved leak detection method for tank at least monthly and submit passing results to MPCA.	1	X \$250.00 =	\$250.00
Subtotal (not to exceed \$2000.00):					\$250.00
TOTAL OF THIS CITATION:					\$1100.00

Notes:**Inspector:**

Jeffery Brandon

651-757-2242

jeffery.brandon@state.mn.us

MPCA St. Paul Office

520 Lafayette Road N

St. Paul

MN 55155-4194

Inspector Signature:**EXHIBIT 7**



Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, MN 55155-4194

Storage Tank Facility

Field Citation
Site # 14270 Inspection # 2

Appeals of Field Citations:

Under Minnesota Statute 116.073, subdivision 3, you may request an expedited hearing to appeal this Field Citation. The following description summarizes the appeal process. It is merely to aid your understanding of your rights. The Commissioner strongly advises you to review the law itself before proceeding.

TO OBTAIN AN EXPEDITED HEARING:

- You must make the hearing request within 15 days of receipt of the Field Citation.
- You must request a hearing in writing.
- You must state the reason you are requesting review of the Field Citation.

The request must be mailed to:

Paul Eger, Commissioner
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155-4194

Please send a copy of the request to:

Jeffery Brandon
Minnesota Pollution Control Agency
520 Lafayette Road N
St. Paul MN 55155-4194

Please send a copy of the request to:

Beverly Conerton
Assistant Attorney General
North Central Life Tower
445 Minnesota Street, Suite 900
St. Paul, Minnesota 55101-2127

If you do not request a hearing within 15 days of receipt of the Field Citation, the Field Citation becomes a final order and will not be subject to further review. If a hearing is held, the Field Citation becomes final when the time to petition the Court of Appeals has expired or the Court of Appeals has ruled and upheld the Field Citation. If you fail to comply with the Field Citation, the MPCA may file the Field Citation in District Court where it will become a final judgement against you without further or additional proceedings. The MPCA may enforce and collect the judgement or a District Court Order against you and require payment of unpaid penalties, monetary damages, attorney fees, costs, and interest. The Attorney General may petition the District Court for entry of the Field Citation as an order of the District Court that may be enforced against you in the same manner as a judgement of the District Court.

Payment of the amount specified in the Field Citation must be sent within 30 days of issuance of the Field Citation. Payment is to be by check or money order payable to Minnesota Pollution Control Agency. The check should be mailed to Attn: Deb Charpentier, Enforcement Penalty Coordinator, Minnesota Pollution Control Agency, 520 Lafayette Road North, St. Paul, MN 55155-4194

CORRECTIVE ACTIONS:

Corrective actions must be completed within 30 days of issuance of the Field Citation. Failure to complete corrective actions within the 30 day period will result in additional enforcement actions, including penalties and issuance of red tags that will temporarily prevent product delivery to the non-compliant tank system(s).

For Office Use Only	
Site #	14270
County:	GOODHUE

CERTIFIED MAIL

For: **JEFF BRANDON**

Floor: **4th**

Mailed On: **OCT 14, 2009**

- ☐ Citation Warning
☒ Field Citation
☐ Letter _____

7007 3020 0000 0961 1259

U.S. Postal Service	
CERTIFIED MAIL RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage \$	Postmark Here
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Mr. Dan Price Twin Cities Stores, Inc. 1800 East Cliff Road, Suite 2 Burnsville, MN 55337	

COMPLETE THIS SECTION ON DELIVERY

SENDER: COMPLETE THIS SECTION

1. Article Addressed to: #14270 Mr. Dan Price Twin Cities Stores, Inc. 1800 East Cliff Road, Suite 2 Burnsville, MN 55337	2. Article Number (Transfer from service label) 7007 3020 0000 0961 1259
-------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------

3. Service Type <input type="checkbox"/> Certified Mail <input type="checkbox"/> Registered <input type="checkbox"/> Insured Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> C.O.D. <input type="checkbox"/> Restricted Delivery? (Extra Fee)	4. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------

PS Form 3811, February 2004 Domestic Return Receipt



Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, MN 55155-4194

Storage Tank Facility

Field Citation
Inspection # 2

Field Citation for Violation of Underground Storage Tank Rules and Statutes

Site: 1416 - Oasis Market #578
3240 E 57th St
Inver Grove Heights MN 55075

Owner: Twin Cities Stores, Inc.
1800 E Cliff Rd Ste 2
Burnsville MN 55337
Contact: Dan Price

952-641-8900

Rule/Statute	Violation Description	Corrective Action	# Systems	Per Tank/Pipe	Penalty
7150.0340 subp. 2	Failure to conduct annual line leak detector function test.	Conduct line leak detector function test and submit passing results to MPCA.	3	X \$250.00 =	\$750.00 Due Date: 12/9/2009
7150.0300 subp. 1	Failure to conduct piping leak detection on piping per approved methods.	Begin conducting piping leak detection per approved methods or change to other approved leak detection method. Submit passing results to MPCA.	3	X \$250.00 =	\$750.00 Due Date: 12/9/2009
7150.0300 subp. 1	Failure to conduct tank leak detection per approved methods.	Begin conducting tank leak detection per approved methods or change to other approved leak detection method. Submit passing results to MPCA.	3	X \$250.00 =	\$750.00 Due Date: 12/9/2009

Subtotal (not to exceed \$2000.00): \$2000.00

TOTAL OF THIS CITATION: \$2000.00

Notes:

- 1) The mechanical line leak detectors must be function tested annually. Submit a copy of passing test results conducted within the past 12 months, or immediately have tested and send me a copy of passing results.
- 2) The method of tank and piping leak detection for this site has been SIR. SIR requires that the monthly inventory data records (i.e., sales, deliveries, inventory, over/shorts for each tank) for the previous month must be submitted to the SIR vendor for monthly analysis by the 10th day of each month. Send me a copy of passing SIR results for the current month.

Inspector:

Shirley Smith
651-285-8666
shirley.smith@state.mn.us
MPCA St. Paul Office
520 Lafayette Road N
St. Paul MN 55155-4194

Inspector Signature: _____

Shirley Smith 11/5/09

Exhibit 8



Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, MN 55155-4194

Storage Tank Facility

Field Citation
Site # 1416 Inspection # 2

Appeals of Field Citations:

Under Minnesota Statute 116.073, subdivision 3, you may request an expedited hearing to appeal this Field Citation. The following description summarizes the appeal process. It is merely to aid your understanding of your rights. The Commissioner strongly advises you to review the law itself before proceeding.

TO OBTAIN AN EXPEDITED HEARING:

- You must make the hearing request within 15 days of receipt of the Field Citation.
- You must request a hearing in writing.
- You must state the reason you are requesting review of the Field Citation.

The request must be mailed to:

Paul Eger, Commissioner
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155-4194

Please send a copy of the request to:

Shirley Smith
Minnesota Pollution Control Agency
520 Lafayette Road N
St. Paul MN 55155-4194

Please send a copy of the request to:

Beverly Conerton
Assistant Attorney General
North Central Life Tower
445 Minnesota Street, Suite 900
St. Paul, Minnesota 55101-2127

If you do not request a hearing within 15 days of receipt of the Field Citation, the Field Citation becomes a final order and will not be subject to further review. If a hearing is held, the Field Citation becomes final when the time to petition the Court of Appeals has expired or the Court of Appeals has ruled and upheld the Field Citation. If you fail to comply with the Field Citation, the MPCA may file the Field Citation in District Court where it will become a final judgement against you without further or additional proceedings. The MPCA may enforce and collect the judgement or a District Court Order against you and require payment of unpaid penalties, monetary damages, attorney fees, costs, and interest. The Attorney General may petition the District Court for entry of the Field Citation as an order of the District Court that may be enforced against you in the same manner as a judgement of the District Court.

Payment of the amount specified in the Field Citation must be sent within 30 days of issuance of the Field Citation. Payment is to be by check or money order payable to Minnesota Pollution Control Agency. The check should be mailed to Attn: Deb Charpentier, Enforcement Penalty Coordinator, Minnesota Pollution Control Agency, 520 Lafayette Road North, St. Paul, MN 55155-4194

CORRECTIVE ACTIONS:

Corrective actions must be completed within 30 days of issuance of the Field Citation. Failure to complete corrective actions within the 30 day period will result in additional enforcement actions, including penalties and issuance of red tags that will temporarily prevent product delivery to the non-compliant tank system(s).

For Office Use Only	
Site #	1416
County:	DAKOTA

CERTIFIED MAIL

Shirley Smith

For: _____

Floor: 5

Mailed On: 6 NOVEMBER 2009

- ☒ Citation Warning
☒ Field Citation
☐ Letter _____

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee	

Postmark
Here

Mr. Dan Price
 Twin Cities Stores, Inc.
 1800 East Cliff Road, Suite 2
 Burnsville, MN 55337

PS Form 3800, June 2002

See Reverse for Instructions

TE92 4628 4000 DTLE E002

2. Article Number
(Transfer from service label)

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-564

Mr. Dan Price
 Twin Cities Stores, Inc.
 1800 East Cliff Road, Suite 2
 Burnsville, MN 55337

3. Service Type

<input type="checkbox"/> Certified Mail	<input type="checkbox"/> Express Mail
<input type="checkbox"/> Registered	<input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Insured Mail	<input type="checkbox"/> C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

1. Article Addressed to: 12319, 1416 2951
- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
 - Print your name and address on the reverse so that we can return the card to you.
 - Attach this card to the back of the mailpiece, or on the front if space permits.

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☒ Agent ☐ Addressee

B. Received by (Printed Name) _____ C. Date of Delivery _____

D. Is delivery address different from item 1? ☐ Yes ☐ No
 If YES, enter delivery address below:

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Chapter 11 Cases

Twin Cities Stores, Inc.,
Twin Cities Avanti Stores, LLC,

Case No. BKY 09-34468

Case No. BKY 09-34469

Debtors.

Jointly Administered

CERTIFICATE OF SERVICE

Beverly Conerton, under penalty of perjury, states that on January 8, 2010, I caused the following documents:

1. Notice of Hearing and Motion of the Minnesota Pollution Control Agency for Payment of Civil Penalties as an Administrative Expense;
2. Memorandum in Support of the Minnesota Pollution Control Agency's Motion for Payment of Civil Penalties as an Administrative Expense;
3. Attachment A to Memorandum, Affidavit of Robert Dullinger in Support of MPCA's Motion for Payment of MPCA Civil Penalties as an Administrative Expense (with attached Exhibits 1-8);
4. Proposed Order Approving Payment of MPCA Civil Penalties as an Administrative Expense; and
5. Certificate of Service

to be filed electronically with the Clerk of Court through ECF, and that ECF will send an e-notice of electronic filing to the following persons:

- Alasra, Inc: fawzisood@me.com
- Kendall L. Bader: kbader@fredlaw.com
- Daniel C. Beck: dbeck@winthrop.com
- Matthew R. Burton: mburton@losgs.com
- Daniel Carrigan: dcarrigan@mckennalong.com
- Michael F. Doty: mdoty@faegre.com
- Theresa H. Dykoschak: tdykoschak@faegre.com
- Jeremy D. Eiden: jeremy.eiden@state.mn.us
- Larry D. Espel: lespel@greeneespel.com
- William Fisher: william.fisher@gpmlaw.com
- Joseph Frank: jfrank@fgllp.com

- Thomas Haines: thaines@co.carver.mn.us
- Linda J. Jungers: LJJ@szjlaw.com
- Douglas W. Kassebaum: dkassebaum@fredlaw.com
- James A. Lodoen: jlodoen@linquist.com
- Ronald G. Marks: peplawyers@aol.com
- John G. McJunkin: jmcjunkin@mckennalong.com
- Jessica A. Mitchell: jessica.mitchell@gpmlaw.com
- Ralph Mitchell: rmitchell@laplibra.com
- Paul L. Ratelle: pratelle@fwhtlaw.com
- Recovery Management Systems Corp: claims@recoverycorp.com
- Michael Rosow: mrosow@winthrop.com
- Dennis M. Ryan: dryan@faegre.com
- Richard C. Salmen: rsalmen@felhaber.com
- Kathleen K. Statler: kstatler@gr-espel.com
- Bridget A. Sullivan: b.sullivan@gurstel.com
- Will R. Tansey: wrtansey@ravichmeyer.com
- US Trustee: ustpregion12.mn.ecf@usdoj.gov
- Sarah J. Wencil: Sarah.J.Wencil@usdoj.gov
- Samuel C. Wisotzkey: swisotzkey@kkmksc.com

I further certify that the foregoing was sent to the following non-ECF recipients via U.S. Mail, postage pre-paid:

Scott H. Marcus
 Scott H. Marcus & Associates
 121 Johnson Road
 Turnersville, NJ 08012

Ikon Financial Services
 Bankruptcy Administration
 1738 Bass Road
 P.O. Box 13708
 Macon, GA 31208-3708

Giertsen Company
 8385 10th Avenue North
 Golden Valley, MN 55427

Gary W. Meyer
 Premium Waters, Inc.
 2100 Summer Street, Suite 200
 Minneapolis, MN 55413

Arlene Pipkin
 E.A. Sween Company dba Deli Express
 16101 W. 78th Street
 Eden Prairie, MN 55344

Charles E. Savitt
 Clear Choice Properties, LLC
 715 Florida Avenue South, Suite 303
 Golden Valley, MN 55344

IRS District Counsel
 380 Jackson Street, Suite 650
 St. Paul, MN 55101-4804

Internal Revenue Service
 Wells Fargo Place
 30 E. 7th Street, Mail Stop 5700
 St. Paul, MN 55101

MN Department of Revenue
Collection Enforcement
551 Bankruptcy Section
600 North Robert Street
P.O. Box 6447
St. Paul, MN 55101-2228

US Attorney
600 U.S. Courthouse
300 S. Fourth Street
Minneapolis, MN 55415

Minnesota Department of Economic Security
332 Minnesota Street
St. Paul, MN 55101-1351

Twin Cities Stores, Inc.
1800 East Cliff Road, Suite 2
Burnsville, MN 55337

Twin Cities Avanti Stores, LLC
1800 East Cliff Road, Suite 2
Burnsville, MN 55337

Dated: January 8, 2010

Respectfully submitted,

LORI SWANSON
Attorney General
State of Minnesota

/e/ Beverly M. Conerton
BEVERLY M. CONERTON
Assistant Attorney General
Atty. Reg. No. 0157946

445 Minnesota Street, Suite 900
St. Paul, Minnesota 55101-2127
(651) 757-1426 (Voice)
(651) 296-1410 (TTY)
beverly.conerton@state.mn.us

ATTORNEYS FOR MINNESOTA
POLLUTION CONTROL AGENCY

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Chapter 11 Cases

Twin Cities Stores, Inc.,
Twin Cities Avanti Stores, LLC,

Case No. BKY 09-34468

Case No. BKY 09-34469

Debtors.

Jointly Administered

**ORDER APPROVING PAYMENT OF MPCA CIVIL PENALTIES
AS AN ADMINISTRATIVE EXPENSE**

This matter came before the undersigned United States Bankruptcy Judge on the motion of the Minnesota Pollution Control Agency (MPCA) for an order authorizing payment as an administrative expense under 11 U.S.C. § 503(b)(1)(A) of \$7,600 in civil penalties assessed by the MPCA against Twin Cities Stores, Inc. during bankruptcy. Based on the arguments of counsel and the documents of record herein, and the Court being fully advised in the premises,

IT IS ORDERED:

1. The MPCA's Motion to pay as an administrative expense \$7,600 in civil penalties assessed by the MPCA against Twin Cities Stores, Inc. during bankruptcy is hereby GRANTED.

Dated:

Dennis D. O'Brien
United States Bankruptcy Judge